for damages against the bank. In that event the injunctions would be inappropriate, because they interfere with the bank's obligations to the Egyptian banks, because they might cause greater damage to the bank than the plaintiffs could pay on their understanding as to damages, and because the plaintiffs would then have an adequate remedy in damages. The balance of convenience would in that event be hopelessly weighted against the plaintiffs.

I therefore was of the view that the bank also succeeded on the second ground.

Application allowed.

Solicitors: *Cheow Hin & Partners; Rodyk & Davidson.*

Reported by *Yap Shao Sin*

Low Pu Tong v Housing and Development Board

HIGH COURT (SINGAPORE) — ORIGINATING SUMMONS NO 1189 OF 1989
SINNATHURAY J
30 OCTOBER 1990

Contract — Service contract — Wrongful dismissal — Whether employer entitled to terminate employee's service with notice — Letter of appointment — Whether superseded by subsequent emplacement of employee on permanent establishment — Whether employee entitled to reinstatement — HDB Rules and Regulations — Application of

Labour Law — Wrongful dismissal — Contract of service — Termination — Notice to be given — Compliance with employer's rules and regulations

The plaintiff was an employee of the Housing and Development Board ('HDB'). He was appointed a works apprentice under a letter of appointment wherein it was specifically provided that the plaintiff's services may be dispensed with by the HDB without any reason being given. Eight years later, the plaintiff was placed on the permanent establishment of the HDB by a letter which stated, inter alia, that this appointment was subject to HDB's Rules and Regulations, conditions of service and any directives issued from time to time. In 1987, the plaintiff was suspended from duties on half-month's pay as he had had been charged with corruption in the subordinate courts. Subsequently, the plaintiff was granted a discharge amounting to an acquittal as the prosecution decided not to proceed. In 1989, the HDB terminated his services with one month's pay in lieu of notice. The plaintiff returned the money to HDB and commenced proceedings for a declaration that his dismissal by the HDB was wrongful.

Held, granting the application:

(1) It is settled law that to be emplaced on the permanent establishment does not mean that the employee would have security of tenure for life ending on his retirement but as to how his contract of service may be terminated must be decided on the relevant rules and regulations that apply to the particular contract of service.

(2) The second letter emplacing the plaintiff on the permanent establishment superseded the works apprentice letter. Therefore, the HDB was not entitled to terminate the employee's service by giving one month's notice.

(3) The HDB Rules and Regulations did not contain a provision relating to the termination of services of an employee by the HDB. The Rules and Regulations only provided as to how an employee may be dismissed from the service. So, if the HDB wanted to terminate the services of the plaintiff, they would be obliged to hold disciplinary proceedings against the plaintiff and comply with r 119 of the HDB Rules and Regulations.

Cases referred to

1 *McClelland* v *Northern Ireland General Health Services Board* [1957] 1 WLR 594 (distd)
2 *Chiam Heng Hsien* v *Jurong Town Corporation* [1986] 1 MLJ 121 (folld)

Lauren Ong Ting Lan for the plaintiff.
Abu Bakar bin Bawah for the defendants.

Cur Adv Vult

Sinnathuray J: In this originating summons the plaintiff claims against the defendants, the Housing and Development Board ('HDB'), for a declaration that the dismissal of the plaintiff by the defendants is wrongful. The two other matters in the originating summons are for further or other relief and costs.

Miss Ong, who appears for the plaintiff, referred to the undisputed facts in this case. They are these. The plaintiff was an employee of the HDB. He was appointed a works apprentice under a letter of appointment dated 24 January 1972. It is specifically provided in para 3(e) of the letter that the plaintiff will not leave the service of the HDB without giving one month's notice in writing and if he does so, he agrees to pay as liquidated damages a sum equal to one month's salary; and, para (f) states that during the continuance of his appointment the plaintiff's services may be dispensed with by the HDB without any reason being given.

Some eight years later, by a letter dated 13 October 1980, the plaintiff was placed on the permanent establishment of the HDB. That letter states as follows:

> I am pleased to inform you that management has agreed to emplace you on the permanent establishment at your existing salary and salary scale with effect from 1 October 1980.
>
> You will retain your present incremental date.
>
> Your appointment on the permanent establishment is subject to all the Board's Rules and Regulations, conditions of service and any directives issued from time to time.

Another seven years went by. On 11 July 1987, the plaintiff was suspended from duties on half-month's pay. He had been charged in the subordinate courts on certain charges of corruption. Subsequently, on 29 April 1989, the prosecution decided not to proceed with the charges and the court granted the plaintiff a discharge amounting to an acquittal on all the charges that were before the court.

On 2 May 1989 the plaintiff wrote to HDB and requested that he be reinstated in the service. On 6 June, he received a reply from the HDB signed by Mr Goh Sin Tok asking the plaintiff to see him. On 7 June 1989, the plaintiff saw Mr Goh Sin Tok, who is the senior assistant secretary of the HDB. According to the plaintiff in his affidavit, he was advised by Mr Goh during the meeting to voluntarily resign from his position or face a termination letter. The plaintiff said that he was told that because there were two thick volumes of documents against him concerning corruption matters, he could not go back to work with the HDB. The plaintiff was startled by this stand taken by the HDB because he had already been acquitted of all the charges against him and he accordingly refused to resign from his position.

On 20 June 1989, the HDB terminated his services and gave him one month's pay in lieu of notice. The plaintiff returned the money to HDB. He then commenced these proceedings on 15 December 1989.

On these facts which are not in dispute, for the facts are accepted by Mr Abu Bakar for the HDB, Miss Ong, for the plaintiff, contends that the purported termination is null and void because the plaintiff was a permanent officer on the permanent establishment with the HDB. She further contends that there is nothing in the Rules that the services of a permanent officer of HDB can be terminated without cause by a simple notice of termination.

Here, I must refer to the relevant Rules and Regulations relating to officers employed by the HDB, in particular those that deal with conduct and discipline. Rules 97 to 117 of the Housing and Development Board Rules and Regulations govern the general conduct and discipline of HDB officers. Rule 118 provides as follows:

> An employee who is guilty of a breach of any of Rules 97-117 may be punished either with dismissal (with or without notice as in the circumstances may seem just) or with any lesser punishment which may seem just.

Rule 119 then sets out the procedure to be followed for the dismissal of officers.

The submission of Miss Ong is that there being no specific rule provided in the Rules to terminate a permanent officer by giving notice, the plaintiff not having been put through disciplinary proceedings for his dismissal, the termination is null and void. It is also her submission that if I find that the plaintiff's services had been wrongfully terminated, then he should be reinstated in the service of the HDB. In support of her submission, she relies on the case of *McClelland* v *Northern Ireland General Health Services Board.*[1] That was a case where the officer was on the *permanent and pensionable establishment;* his services had been terminated by six months' notice on the ground of redundancy; and, it was held by the House of Lords that the termination was wrong.

Mr Abu Bakar for the HDB strongly challenges the stand taken by the plaintiff in these proceedings. His submission is that there are two issues in this case. The first issue, he said, relates to liability: the defendants have a legal right to terminate the plaintiff's employment by way of giving one month's notice. Secondly, he said that if the defendants have no such right, then it is his submission that the plaintiff's contract being a contract of service, there can be no question of reinstatement; the only issue would be what is the appropriate relief by way of damages which the plaintiff can be entitled to.

Now, as regards liability, Mr Abu Bakar relies on the first letter of appointment, that of 24 January 1972, under which the plaintiff was appointed as a works apprentice, and in particular, cll 3(e) and (f) which I have already referred to. His submission is that the effect of these two clauses is that either the plaintiff or the HDB could give one month's notice in writing and the contract of service between the parties would come to an end. In other words, if the plaintiff wants to leave the services of the HDB, all he needs to do under cl 3(e) is to give one month's notice in writing; and likewise, if the HDB wants to terminate the services of the plaintiff they could give one month's notice under cl 3(f) without assigning any reason whatsoever. Counsel contends that the letter constitutes the permanent terms of appointment of the plaintiff with the HDB. Whatever the position the plaintiff may have attained in subsequent years, said Mr Abu Bakar, has no effect in so far as these two clauses are concerned. Therefore, notwithstanding the fact that the plaintiff was on 13 October 1980 placed on the permanent establishment at the existing salary and scale with effect from 1 October 1980, the parties were nevertheless bound by that first letter of appointment which allows either the plaintiff or the HDB to give one month's notice in writing to terminate the contract of service.

Another of his submissions is that as the letter of emplacement on the permanent establishment stated that the appointment on the permanent establishment was subject to all the Board's Rules Regulations, conditions of service and any directives issued from time to time, the Rules and Regulations relating to dismissal from the HDB would apply to the plaintiff but that the same would have no application where the HDB decides to terminate the services of the plaintiff.

In support of his submissions, Mr Abu Bakar said that I was bound by the Court of Appeal's decision in *Chiam Heng Hsien* v *Jurong Town Corporation.*[2] In this case, it was held that the dismissal of the plaintiff by the

Jurong Town Corporation ('JTC') had been wrongful for the reason that the JTC had not complied with the disciplinary rules relating to dismissal. In the course of the judgment, the Court of Appeal referred to cl 26 of the Rules and Regulations of JTC. Clause 26 reads as follows:

> Unless otherwise provided, the appropriate notice period as prescribed in the 'Terms & Conditions of Service' or a sum equivalent to the consolidated salary for the same period in lieu of notice must be given by an officer who desires to resign from the service of the Corporation. The Corporation itself is also governed by the same provision.

The court then dealt with r 30 relating to emplacement of an officer of JTC on the permanent establishment:

> In the instant case the words in r 30, namely: 'shall be placed on the permanent establishment', do not admit of a construction that the appellant's employment with the respondent would be for life ending on his retirement. They merely mean that the appellant would be on the general and regular staff of the respondent, as distinct from temporary or probationary, and his employment on that basis would continue for an indefinite period but liable to be determined by notice.

I think it is right to say that Mr Abu Bakar accepts the position that the HDB does not have a provision similar to r 26 as found in the JTC Rules. But, it is his argument, as I have said, that because of the letter of appointment which provides for termination by either side giving one month's notice, he urges upon me that though the plaintiff had been emplaced on the permanent establishment his services could nevertheless be terminated by giving one month's notice.

Having considered the submissions of counsel, I am of the view that it is now settled law that to be emplaced on the permanent establishment (as distinct from being emplaced on a permanent and pensionable establishment) does not mean that the employee would have security of tenure for life ending on his retirement; but as to how his contract of service may be terminated must be decided on the relevant rules and regulations that apply to the particular contract of service.

On the facts, in the present case, I accept the submission of Miss Ong that the second letter emplacing the plaintiff on the permanent establishment supersedes the works apprentice letter of 24 January 1972. Under the first letter the plaintiff was, as it states, an apprentice. He was not a fully qualified employee with the HDB. In other words, to use another term, he was on probation. Seven years later, by the second letter, his work and conduct having been satisfactory, the HDB emplaced him on the permanent establishment. Once he was on the permanent establishment, under para 3 of the second letter, he was told that he was subject to all the Board's Rules and Regulations, etc. As for the Rules and Regulations that were to apply to him there was nothing in them, as was provided in the JTC Rules, relating to the termination of services of an employee by the employer, the HDB. The Housing and Development Board Rules and Regulations only provided as to how an employee may be dismissed from the service.

To determine the issue before me, I must, therefore, go back to first principles, and must bear in mind that this case concerns a contract of service. There being no provision for notice of termination by the HDB and the plaintiff not having been dismissed from the service of the HDB, I find that one month's notice of termination given by the HDB to the plaintiff was not a reasonable notice. The letter of termination was therefore of no effect. But, because the contract between the plaintiff and the HDB was a contract of service, there is no question of the plaintiff being reinstated in the services of the HDB.

In the present case, having decided that the termination of the plaintiff by way of one month's notice was wrongful, what then is the relief that the plaintiff is entitled to? If he is to be dismissed from the service of the HDB, he is, of course, entitled to disciplinary proceedings being taken against him. The plaintiff has said in his affidavit that he was told by the HDB that they had two thick volumes of documents against him in respect of corruption matters. So, if the HDB wants to terminate the services of the plaintiff, they would be obliged to hold disciplinary proceedings against the plaintiff and comply with r 119 of the Housing and Development Board Rules and Regulations.

Here, I turn to the second issue, that of damages. On this, I am, of course, bound by the Court of Appeal's decision in the *JTC* case.[2] In that case, it having been conceded by the JTC that the dismissal was wrongful, the Court of Appeal laid down the principles to be applied for damages to be awarded.

Applying the principles to the facts in this case, what I have to decide is what is the reasonable period for the HDB to take disciplinary proceedings against the plaintiff. In the *JTC* case,[2] the Court of Appeal came to the conclusion that two months would be a reasonable period and they added another month. I do the same in the present case. I award the plaintiff three months' salary by way of damages for the wrongful termination of his services by the HDB. I also award costs to the plaintiff to be taxed and paid by the defendants.

Application allowed.

Solicitors: *Boey Ng & Wan.*

Reported by *Kevin Mathews*